

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposed regulations prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mary Ann Shulman, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Shulmanm@insurance.ca.gov
Telephone: (415) 538-4133
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
MohrE@insurance.ca.gov
Telephone: (415) 538-4112
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on October 20, 2004**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Written comments shall be submitted by one method only.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Section 2662.1-2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, Suite 1700
Sacramento, CA 95814
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST

California Insurance Code (CIC) Sections 11629.7 through 11629.999 establish, within the California Automobile Assigned Risk Plan (CAARP), established under Section 11620 of the Insurance Code, low cost automobile insurance pilot programs for the County of Los Angeles and the City and County of San Francisco.

Because the pilot programs are established and administered through CAARP, CAARP procedures are applied where appropriate and not inconsistent with the low cost automobile insurance statutes. Insurance Code sections 11620 and 11624 require the Commissioner to hold a public hearing before amending the plan.

Sections 11629.7 and 11629.9 of the Insurance Code require that, after a public hearing, the Commissioner shall approve or issue a reasonable plan for the equitable apportionment, among insurers, of eligible consumers. The plan also contains application procedures and rules and regulations governing the administration and operation of the plan. This Plan of Operations, approved by the Commissioner, is referenced in Title 10, Section 2498.6 of the California Code of Regulations. The proposed amendments refer to sections of the Plan of Operations, and are intended to implement, interpret, and make specific CIC §§ 11629.7-11629.999.

POLICY STATEMENT OVERVIEW

The proposed amendments to the statutorily required plan establish an optional electronic application process and standards for producers using the electronic application method. The purpose of these amendments is to apply computer-based technologies to streamline the application process for producers and eligible consumers.

Introduction

In the current Plan of Operations, the introductory section sets forth how to submit an application to the program. Proposed additions to this section include guidelines for a new optional electronic application process.

Other changes update the reference to forms available from AIPSO, the plan administrator.

Section 1. Definitions

A proposed amendment expands the definition of “application” to include the proposed electronic application form and adds a definition for the “Electronic Application Submission Interface” (EASi). Also, the definition of “postmark” has been amended to specify that existing law provides that a postmark only means that applied by the United States Postal Service rather than electronic generated marks such as metered mail.

Section 20 Performance Standards for Producers Writing California Low Cost Automobile Insurance Program Risks

Currently, the Plan of Operations sets forth record keeping standards for producers writing low-cost automobile insurance policies. Amendments have been proposed to include the maintenance of certain information in log records with respect to the optional electronic application process. These requirements are similar to requirements for the paper application process. The other proposed changes substitute the acronym of “EEDP” in place of references to the Electronic Effective Date Procedure to shorten the length of sentences for readability.

Section 23. Application Requirements

Section 23 sets forth standards for submitting application forms. Amendments to this section include reference to the paper application form produced by the electronic application process (EASi) for consistency.

Section 28. Application for Assignment, Designation of Insurer, Evidence of Insurance, and Effective Date of Coverage

Existing Section 28 C Effective Date of Coverage recognizes the United States Postal Service postmark for purposes of establishing the effective date of coverage consistent with the plan guidelines. Amendments to this provision specify that, under existing rules, a metered mail postmark or other computer generated electronic stamp do not satisfy this criteria.

Currently, this section sets forth general standards for using the Electronic Effective Date Procedure (EEDP) to establish immediate coverage and future effective dates. Proposed amendments organize procedural requirements under separate headings for Immediate Coverage and for Future Effective Date Coverage for ease of reference. The amendments clarify procedural standards to be followed by producers, subject to assessment of penalties for violations, consistent with existing compliance measures. In addition, this section adds provisions specifying procedures to be followed by producers using the

electronic application process (EASi), subject to identical penalty assessment for violations as the original paper application process.

Section 29 Policy Change Requests

Section 29 H sets forth standards for establishing an effective date of a policy change request when conditions for establishing an earlier date have not been met. The proposed amendment specifies that, under existing rules, a computer generated electronic stamp is not considered a postmark of the United States Postal Service. This technical change is proposed for consistency throughout the Plan of Operations.

COMPARABLE FEDERAL LAW

There are no existing comparable federal regulations or statutes.

PRE-NOTICE PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Pursuant to California Government Code Section 11346.45, the Insurance Commissioner has not circulated this regulatory language prior to publication of this Notice because these regulations were initiated, recommended, and the text drafted by AIPSO and the Advisory Committee of CAARP. Persons interested in the substance of these regulations have provided input to AIPSO and CAARP on the proposed regulations. That input has been considered in the drafting of these regulations. Moreover, these regulations do not involve a complex subject and the regulations can easily be reviewed during the comment period.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposed regulations will not result in any new program mandates on local agencies or school districts.

COST OR SAVINGS TO STATE OR LOCAL AGENCIES / SCHOOL DISTRICTS / FEDERAL FUNDING

The Insurance Commissioner has initially determined that the proposed regulations will not result in any cost or savings to any state agency or to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies. Nor will the proposal affect federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

Because the proposed amendments clarify procedures for the administration and operation of the plan, the Insurance Commissioner has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or

elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner has initially determined that a representative private person or entity will not incur any cost impact in reasonable compliance with the proposed amendments because they merely clarify existing standards and make available to producers an optional electronic application process that imposes the same requirements for paper applications.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposed regulations will not affect housing costs.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed amendments would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action. The agency invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PLAIN ENGLISH

The proposal is in plain English except to the extent that technical terms could not be avoided. Those technical terms are defined in plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons which sets forth the reasons for the regulations in addition to the Informative Digest included in this notice. The Initial Statement of Reasons, together with the text of the proposed regulations, and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to a contact person listed above.

FINAL STATEMENT OF REASONS

Once prepared, the Final Statement of Reasons will be made available through the contact persons listed above.

AVAILABILITY OF MODIFIED TEXT

With the exception of nonsubstantive or grammatical changes, if the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before it adopts the regulations.

QUESTIONS REGARDING REGULATIONS/ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about the proposed regulations, the statement of reasons, the information upon which the proposal is based, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, the text of the proposed regulations, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at www.insurance.ca.gov.

JOHN GARAMENDI
Insurance Commissioner

Dated: September 3, 2004

By: /s/
Mary Ann Shulman
Staff Counsel